

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ROBERT L. CANNON

vs.

DAVID JAMES

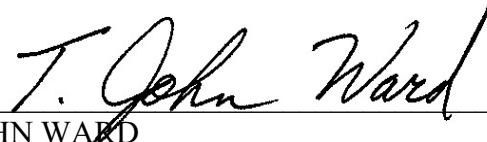
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CASE NO. 5:09-CV-132-TJW-CE

ORDER

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 21), which contains his recommendation that the court grant the defendant David James's motion to dismiss (Dkt. No. 10) if the plaintiff Robert L. Cannon fails to amend his complaint to allege that he has been exonerated, has been presented for consideration. No objections were filed to the report and recommendation. The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts, in its entirety, the report of the United States Magistrate Judge as the conclusions of this court. Accordingly, the court grants Mr. Cannon leave to file an amended complaint, within fourteen days of this order, alleging that he was exonerated of his criminal conviction. If Mr. Cannon fails to allege that he was exonerated, the plaintiff's complaint is subject to dismissal for failure to state a claim upon which relief may be granted. *See* Fed. R. Civ. P. 12(b)(6).

SIGNED this 15th day of June, 2010.

A handwritten signature in black ink, reading "T. John Ward", is written over a horizontal line.

T. JOHN WARD
UNITED STATES DISTRICT JUDGE